

# **KENTUCKY DEPARTMENT OF EDUCATION**

## **STAFF NOTE**

### **Action/Discussion Item:**

702 KAR 1:160, School Health Services (Final) (Formerly 704 KAR 4:020; received new number)

### **Applicable Statute or Regulation:**

KRS 156.070, 156.160(1) (g), (h), (i), 156.501, 156.502, 161.145, 214.034, 214.036 and 29 C.F.R. 1910.1030

### **Action Question:**

Should the Kentucky Board of Education give final approval to 702 KAR 1:160?

### **History/Background:**

**Existing Policy.** This regulation implements several statutory provisions dealing with school health and safety. The regulation describes, for both school district employees and students the necessary forms that are to be completed and the data that should be maintained for each individual. The purpose of the proposed amendments is to ensure that the regulation is aligned with state and federal law in terms of health data requirements and to reflect current medical terminology. In addition, the forms associated with data collection have been streamlined for greater efficiency.

The first review of the regulation occurred at the December 2011 meeting. No substantive changes have been made since that review. It is now back for consideration of final approval.

The proposed amendments include the following changes:

1. Changing the regulation number from the Title 704 (Learning Programs Development) series to the Title 702 (District Support Services) series to establish a new School Health Services regulation.
2. Changing references from nurse practitioner to Advanced Practice Registered Nurse Practitioner throughout to correct the reference and bring it up to date.
3. Changing the reference to a “valid” immunization certificate to “current” immunization certificate to align with statutory requirements.
4. Assigning KDE form numbers to all documents incorporated by reference.
5. Changing the Preventative Health Care Examination forms to:
  - Combine the two existing forms into one
  - Include a space on the revised Preventative Health Care Examination form for BMI percentile
6. Removing the requirement for scoliosis screening and all related requirements from the regulation per stakeholder feedback and review of current federal recommendations.

7. Changing the Medical Examination of School Employees form. The current form includes a section for health care providers to request family history information from the applicant/employee. The new Genetic Information Nondiscrimination Act (GINA) law and related regulations prohibit this request for information from applicants/employees and therefore a change to the form is necessary. The following changes to the form are needed to bring it into compliance:
  - Eliminate the section entitled “Family History” (T.B., epilepsy, Diabetes, etc)
  - Add the following language to the form:  
*“Pursuant to the Genetic Information Nondiscrimination Act of 2008, it is unlawful for an employer to request genetic information, genetic testing information, family medical history information, or family genetic testing information from an applicant or employee. The medical provider conducting this examination of an applicant/employee of a local school district shall not request, require or purchase this information about the applicant or employee. Any applicant or employee undergoing a medical examination for employment with a local school district shall not provide this information to the medical provider or to the school district.”*
8. Changing Section 3 of the regulation to allow school districts to maintain electronic copies of the "Pupil's Cumulative Health Record" in the Kentucky Student Information System (KSIS). The KSIS accomplishes all of the requirements that are currently maintained on paper. Allowing the option for electronic records will eliminate a great deal of paperwork for the school districts that wish to maintain the information electronically.
9. Changing the Pupil's Cumulative Health Record form to:
  - Include a space in the form to accommodate BMI percentile

Forms that will be updated are:

1. Medical Examination of School Employees (Revised, numbered KDESHS001 )
2. Preventative Health Care Examination Form (Revised, numbered KDESHS002)
3. Kentucky Eye Examination Form for School Entry (Numbered KDESHS004)
4. Kentucky Dental Screening Examination Form (Numbered KDESHS005)
5. Pupil's Cumulative Health Record Form (Numbered KDESHS006)

### **Staff Recommendation and Rationale:**

Staff recommends final approval of 702 KAR 1:160. Approval of this regulation aligns it and the forms incorporated by reference with state and federal requirements. Also, paperwork will be reduced for school districts.

### **Impact on Getting to Proficiency:**

Keeping students healthy is essential to student success.

### **Groups Consulted and Brief Summary of Responses:**

The KDE legal services team made required revisions to the School District Employees Physical forms that were incorporated to meet the statutory requirements in GINA. Members of the state Head Start

Advisory Council and various school district early childhood personnel were consulted concerning inclusion of Head Start physicals for entry level primary students and are supportive. Proposed changes to the Preventative Health Care Examination forms have been reviewed and are supported by the American Academy of Pediatrics and the Kentucky Department for Public Health. An opportunity for public review and comment was provided to statewide organizations concerned with student health in Kentucky in August 2011 resulting in two responses. The responses were reviewed by the KDE Health Team and all recommendations were considered. Some changes were made based on those recommendations. The Kentucky Board of Education Health Committee received a presentation and an opportunity for review and comment on possible changes to the regulation in September 2011. The Local Superintendents Advisory Council will provide feedback to the KBE on the proposed regulation revisions and its feedback will be reported at the February KBE meeting.

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Commissioner of Education

**Date:**

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